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**Consideration of reports submitted by States parties under article 40 of the Covenant**

# List of issues in the absence of the second periodic report of the Gambia

**Addendum**

## Replies of the Gambia to the list of issues*

[Date received: 25 May 2018]

* The present document is being issued without formal editing.

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## Constitutional and legal framework within the covenant is implemented, right to an effective remedy (art. 2)

**Paragraph 1: Please provide information on steps taken by the new Government to ensure the protection of human rights in accordance with the Covenant and any transitional measures taken on the legislative, policy and institutional level to bring about legal and policy reform. In this context, what are the priority areas where the new government intends to take steps?**

### Policy objectives

1. The new government of The Gambia, headed by President Adama Barrow, together with the Gambian people, have resolved to improve the country's human resources capacity, its constitutional, legal and institutional framework as well as the quality of its strategies, policies and programs in various governance areas in order to consolidate democracy and align the entire governance architecture with international justice and human rights standards. In that regard, the priorities of the government are two-fold: (i) dealing properly with past human rights violations and abuses, and (ii) putting in place a new and resilient architecture to uphold the highest standards of respect for human rights, the rule of law, and justice, within the framework of a transitional justice process.

*Dealing with the Past*

2. After over two decades of authoritarian rule characterized by gross human rights violations including torture, enforced disappearance, arbitrary arrests, detention without trial, and murder perpetrated by State agents; a deeply polarized society based on ethnic and political considerations; incitement of ethnic hatred through constant and continuous spewing of hateful propaganda targeted at certain ethnic communities; political persecution; impunity for crimes committed in the name of national security, and of course poverty, reconciliation is a key component of The Gambia's transitional justice process.

3. Within the first year of installation of the new Government of The Gambia, a Truth, Reconciliation and Reparations Commission (TRRC) [1] was established following nationwide consultations on its establishment. The objectives of the TRRC include investigating human rights violations and abuses committed during the past 22 years of former president Jammeh's authoritarian rule, to foster social cohesion and encourage national reconciliation among Gambians, to address impunity and also to recognize the rights and dignity of victims through the provision of appropriate Reparations. The TRRC also has the mandate to identify for prosecution those who bear the greatest responsibility for human rights violations committed since July 1994.

### Legislative reforms

*The 1997 Constitution*

4. By our estimation, the 1997 Constitution of the Republic of The Gambia has been amended at least 52 times between 1997 and 2016 with two principal objectives: (i) to entrench the former President in power, and (ii) to exclude all others from the political process. Within one year of the installation of the new Government of The Gambia, the Government has established, by an Act of the elected national assembly, a Constitutional Review Commission (CRC)[2] to undertake a comprehensive constitutional reform process that will deliver a progressive Republican Constitution which shall espouse all the principles of good governance, respect for fundamental human rights and democracy. The mandate of the CRC is to draft a new constitution of the Republic of The Gambia based on popular participation through public consultations with all Gambians from all walks of life including Gambians in the diaspora, and taking into account the need to:

[1] Truth, Reconciliation and Reparations Commission Act 2017.

[2] Constitutional Review Commission Act 2017.

- Establish clear demarcations between the executive, legislature and judiciary and the provision of appropriate and workable checks and balances between these organs of State;
- Ensure the accountability of government to the people of The Gambia;
- Guarantee the full participation of the citizens in the political, social, economic and cultural activities of the country and ensure that the basic human rights of the citizens are respected.

*National Human Rights Commission*

5. Within one year of the installation of the new Government of The Gambia, the Government has established a National Human Rights Commission in full compliance with the Paris Principles with the dual mandate of promotion and protection of human rights in The Gambia.

*Elections law Amendments*

6. One of the drawbacks to The Gambia's democracy was the exorbitant deposit fees imposed on all aspirants for elected office, which had the effect of drastically reducing the number of people participating in elections. Within three months of the installation of the new Government of The Gambia, and before the National Assembly elections were held, the Government amended the Elections Act in order to reduce the deposit amounts payable by contestants in the impending National Assembly elections. The deposit amounts, increased by the previous Government, were meant to create a financial stumbling block for ordinary Gambians and consequently prevent them from contesting the elections. The legal reduction of the deposit amounts by the new Government allowed over 200 candidates to contest over 53 national assembly seats culminating in the MOST diverse National Assembly representation in two decades, including members of the previous ruling party of former President Yahya Jammeh.

7. Within the first year of the installation of the new Government of The Gambia, the 1997 Constitution of The Gambia was amended to allow for the direct election of Chairpersons of local governments in the provincial areas of The Gambia. Previously, only the Mayors of the two urban areas of Banjul and the Kanifing Municipal Council were directly elected through universal adult suffrage. The Chairpersons of local councils were elected from among elected councillors. The amendment of the 1997 Constitution by the new Government allowed for the direct election of Chairpersons of local councils through universal adult suffrage and thus removed an act of discrimination between rural and urban voters.

**Institutional reforms**

8. The Government of The Gambia has set about the strengthening of existing governance institutions and the creation of new institutions. In this regard, the Judiciary, the independent Electoral Commission and the police have all had their independence restored by allowing them to operate without political interference. For the first time in the history of The Gambia, a National Human Rights Commission has been set up by an Act of the National Assembly in December 2017 in full compliance with the Paris Principles of independence and autonomy. It is expected that this Commission shall enhance the protection and promotion of human rights.

9. Strengthening the judiciary and women's access to justice by appointing them to decision making positions is at the heart of the Government's law reform agenda. This policy is reflected in the judicial appointments since the new Government was installed a year ago. Out of 12 new judicial appointments to the superior courts of The Gambia, 5 of the Judges are women. Of the newly re-constituted Gambia Court of Appeal, 4 out of the 7 Justices of appeal are women. And for the first time in the history of The Gambia, we now have a female Gambian Justice of the Supreme Court of The Gambia, the highest court in the land.

10. The Ministry of Justice has now established a Sexual and Gender Based Violence Unit within the Ministry whose members shall receive specialised training in handling sexual and gender based violence cases.

11. Prosecutors, law enforcement agents including prison wardens have started receiving human rights training in various aspects such as investigations, prosecutions, and through the assistance and support of local and international NGOs such as the International Senior Lawyers Project, the IDEA, and the Institute for Human Rights and Development in Africa among others. This training will be a continuing exercise.

**Paragraph 2: Please state the extent to which the provisions of the Covenant have been invoked in the State party's domestic courts. Please provide information on efforts to harmonize statutory, customary and Islamic laws with the Constitution, and efforts to give effect to the provisions of the Covenant, including training of judges, prosecutors and lawyers regarding the rights protected under the Covenant.**

12. Under the existing Constitutional framework of The Gambia, section 7 provides an exhaustive list of the sources of law and international treaties and covenants are conspicuously missing from the list. Accordingly, international agreements must be domesticated by the National Assembly for it to be invoked in the domestic courts, and so they have not invoked the Covenant in any of the cases brought before them.

13. Chapter IV of the 1997 Constitution of The Gambia embodies all the ideals of the Covenant as it effectively provides for the Gambia's bill of Rights. The Gambian Constitution provides that every person in The Gambia, whatever his or her race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status, shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter, but subject to respect for the rights and freedoms of others and for the public interest.

14. The fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by all organs of the Executive and its agencies, the Legislature and, where applicable to them, by all natural and legal persons in The Gambia, and shall be enforceable by the Courts in accordance with the Constitution.

15. The right to life — this is guaranteed in the 1997 Constitution of The Gambia as a fundamental human right from which no derogation is permitted even in time of public emergency, which threatens the life of the nation. However, the Gambia still has the provision of the death penalty and there have been numerous appeal cases at both the Court of Appeal and the Supreme Court regarding the offence of treason which carries the death penalty.

16. Torture — The prohibition of torture, inhuman or degrading punishment or other treatment is absolute in that even in situations of public emergency this provision is non-derogable. Although the Constitutional prohibition of torture is not yet supported by the creation of a specific offence of torture under the country's criminal law, the offences in the Criminal Code such as threatening violence, common assault, assault causing actual bodily harm, assault causing grievous bodily harm and laws and regulations such as the Judges Rules and the Evidence Act 1994 have also been put in place to give effect to and prohibit the practice of torture. Recent case is the case of the private prosecutions presently ongoing regarding the death of Solo Sandeng and the N.I.A officials.

17. Right to liberty and security of person — The Gambian Constitution guarantees "every person" the right to liberty and security of person. This means that the right to personal liberty and security of the person is applicable to all deprivations of liberty, whether in criminal cases or in other cases such as, mental illness and immigration control. It is prohibited under the Constitution to subject anyone to arbitrary arrest or detention and no one is to be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law.

18. The Constitution provides further that any person who is arrested or detained shall be informed as soon as is reasonably practicable and in any case within three hours (3), *in a* language that he or she understands, of the reasons for his or her arrest or detention and of

his or her right to consult a legal practitioner. Persons who are arrested or detained for the purpose of bringing them before a court in execution of the order of a court or upon reasonable suspicion of them having committed, or being about to commit a criminal offence must be taken to court within seventy-two hours (72) as required by the Constitution.

19. Freedom of speech — The Gambian Constitution guarantees every person's "freedom of speech and expression, which shall include freedom of the press and other media; freedom of thought, conscience and belief, which shall include academic freedom; freedom to petition the Executive for redress of grievances and to resort to the Courts for the protection of his or her rights." At present, there are numerous cases of the violation of this right by the media currently at the Court of Appeal on this issue.

20. Freedom of Assembly — Section 25 (d) of the Constitution protects a person's freedom of assemble and demonstrate peaceable without arms. In 2016 following demonstrations by members of the opposition United Democratic Party(UDP) and their subsequent detention, a petition was brought before the Gambian Supreme Court to challenge the Constitutionality of section 5 of the Public Order Act.

**Paragraph 3: Please provide information on the measures taken to improve access to judicial remedies by addressing the backlog in the domestic courts. Furthermore, please describe the measures taken to address the recurring failure to enforce court orders and judgments related to human rights, including those issued by the Court of Justice of the Economic Community of West African States in the cases of Musa Saidykhan v. The Republic of The Gambia (Suit No. ECW/CCIIAPP/11107), and Chief Ebrima Manneh v. The Republic of The Gambia (Suit No. ECW/CCJ/JUD/03/08).**

21. One of the major institutional reforms being undertaken by the new Government is the strengthening of the independence and capacity of the Judiciary of The Gambia. This began with the appointment of a Jurist of international repute in the person of Justice Hassan Jallow, the former Chief Prosecutor of the International Criminal Tribunal for Rwanda. From January 2017 to date, the capacity of the Judiciary has been greatly enhanced with the appointment of 12 new Judges of the High Court, Court of Appeal and Supreme Court. Fundamentally, the appointment of 5 Justices in the Supreme Court has made the court functional after a three-year hiatus due to a lack of quorum.

22. In a bid to clear the backlog of criminal cases, the new Chief Justice has issued a Practice direction which requires that as opposed to the traditional subject matter divisions in the High Court, all High Court Judges shall hear criminal cases. Correspondingly, all State Counsel, including those working in the Civil Litigation and International Law Division of the Attorney General's Chambers, have also been assigned to handle criminal cases by the new Attorney General. The judiciary has also operationalised the decentralisation of the justice delivery system by opening High Courts in the Regions in order to improve access to judicial remedies. Furthermore, new Magistrates have been appointed together with additionally support staff especially for courts in the rural areas and provided with necessary resource materials to aid with the dispensation of their duties. Currently, there are thirty (30) magistrates and twenty-one (21) Cadis.

23. Another avenue created to reduce backlog of cases is the Court-connected Alternative Dispute Resolution (ADR) introduced pursuant to Practice Direction No.1 of 2013 as part of practice and procedure for the High Court. The purpose of the court-connected ADR is to reduce the backlog of cases before a trial judge. In this regard litigants take control of the outcome of their cases. It is a confidential process and is without prejudice to the rights of litigants who subsequently opt to proceed to trial after exploring ADR. The court-connected ADR is under the purview of the office of the Master of the High Court.

24. With regards the issue of ECOWAS Court Judgements, the Government has reiterated its commitment to the respect for the rule of law by adhering to all court judgements, both local and international. Accordingly, in the first quarter of 2018, the Government has effected a 50% part payment of the Judgement sum to the families of the

late Chief Ebrima Manneh and Deyda Hydara as well as Musa Saidykhan. The outstanding balance shall be paid off before the end of 2018.

**Paragraph 4: According to information before the Committee, a bill on the establishment of a national human rights commission was validated by key stakeholders with the support of the Commonwealth Secretariat on 22 August 2013. Please provide information on the status of this bill, which seeks to establish a national human rights institution (NHRI) in line with the principles relating to the status of national institutions (the Paris Principles) adopted by the General Assembly in resolution 48/134. Please also provide information on steps taken to establish a national mechanism for reporting and follow-up, as a standing government structure (ministerial, inter-ministerial or institutionally separate) that is mandated to coordinate and prepare reports for submission to and engage with international and regional human rights mechanisms.**

25. In December 2017, in line with the Paris Principles a National Human Rights Commission Act was enacted by the National Assembly for the promotion and protection of human rights in The Gambia. Subsequently, measures are being taken to set up the secretariat of the Commission and the recruitment of Commissioners.

26. In 2016, a permanent Inter-Ministerial National Taskforce on treaty reporting was established. This taskforce is tasked with the responsibility of the preparation and follow up of The Gambia's Periodic Reports to Human Rights Treaty Bodies to ensure the country's compliance with its reporting obligations and engage with international and regional human rights mechanisms.

## Past human rights violations (arts. 2, 6, 7, 9 and 14)

**Paragraph 5: Please indicate whether the State party intends to establish a mechanism to address the human rights violations, especially torture, enforced disappearances, extrajudicial killings, arbitrary arrests and detention, which were committed during the previous regime, and to provide reparations to victims. What steps have been taken to repeal (a) schedule 2, section 13, of the Constitution which grants retroactive immunity to members of the Armed Forces Provisional Revolutionary Council; and (b) the Indemnity Amendment Act, 2001, which effectively granted immunity from prosecution to members of the security forces.**

27. In a bid to address past human rights violations, the new Government enacted the Truth Reconciliation and Reparations Commission Act in December 2017. This Commission is charged with the mandate to investigate past human rights violations, enforced disappearances, extrajudicial killings, arbitrary arrests and detention and provide reparations to victims.

28. To address past violations of human rights, prosecution is ongoing for former NIA officials accused of the murder of Ebrima Solo Sandeng in 2017.

29. With regards to Section 13 of the 1997 Constitution and the Indemnity Act, 2001, the Government of The Gambia is fully committed to Constitutional and criminal justice reforms through the Constitutional Review Commission and the Criminal justice reform process. Consequently, these two issues will form part of the reforms to be undertaken.

## State of emergency and counter-terrorism measures (arts. 4, 7 and 9)

**Paragraph 6: Please explain the steps being taken to ensure that article 35(2) of the Constitution, which provides for the derogation of rights during states of emergencies that are not allowed for under the Covenant, fully complies with article 4(2) of the Covenant. Following the state of emergency declared on 17 January 2017, please provide information if it is still in force and if the State party intends to revoke it. Please also indicate all measures undertaken to document all violations of human rights under the Covenant related to the emergency situation, and the steps being taken to investigate and redress violations of rights that were not suspended.**

**Steps taken to comply with article 4 (2) of the Covenant**

30. Since the present government took office in January 2017, it has committed itself to full realisation of the fundamental human rights of all persons in The Gambia. To this end, the Government is undertaking key constitutional and legal reforms to bring our laws in harmony with our international obligations.

**State of emergency**

31. On January 24, 2017, the National Assembly ended the state of emergency in the country and rescinded the extension of executive power that had been granted to former President Yahya Jammeh.

32. With regard to human rights violation documentation, the Truth Reconciliation and Reparations Commission is the mechanism that will document and shed light on extrajudicial killings, enforced disappearances, rape, torture and other human rights abuses committed during the rule of former President Jammeh from 22nd July 1994 to January 21st 2017.

**Paragraph 7: Please provide information on the definition of terrorism under the Anti-Terrorism Act of 2002 and the cases brought on charges of terrorism and their outcome, including the sentences imposed. Please also provide information on the legal safeguards in place for persons suspected of, or charged with, terrorism or related crimes.**

**Definition of terrorism**

33. According to Section 2 of the Anti-Terrorism Act, CAP.13:01 Revised Laws of The Gambia 2009, "act of terrorism" includes an act which:

(a) May seriously damage a country or an international organization;

(b) Is intended or can reasonably be regarded as having been intended to:

(i) Intimidate a population;

(ii) Seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or any international organization; or

(iii) Otherwise influence a government or an international organization.

(c) Involves or causes, as the case may be:

(i) Attacks on a person's life which may cause death;

(ii) Attack on the physical integrity of a person, including rape.

(d) Forcible deprivation or taking of a person's property, with or without the use of arms;

(e) Kidnapping of a person;

(f) Extensive destruction to a government or public facility;

(g) The seizure of an aircraft, a ship or other means of public or goods transport;

(h) The manufacture, possession, acquisition, transport supply or use of weapons, explosive or of nuclear, biological or chemical weapons.

**Terrorism cases in The Gambia**

34. In 2009 16 people were charged under the Anti-Terrorism Act 2002, contrary to Section 3 (1) of the Act.

35. Similar to persons charged with other criminal offences, the Constitutional protection on the protection of personal liberty, the prohibition of torture, cruel, inhuman or degrading treatment and the provision to secure protection of the law and fair trial applies in cases of terrorism or related crimes. The government is committed to adopting measures that ensure respect for human rights for all and any measures adopted to counter terrorism will have to comply with its obligations under international law.

36. Further to the above, the evidential rules governing the admissibility of evidence applies in cases of terrorism.

## Non-discrimination, equality between men and women (arts. 2, 3, 25 and 26)

**Paragraph 8: Please provide information on the measures taken to improve: (a) women's status in the political, economic and social life of the country; (b) the percentage of women employed in decision-making positions both in the private and public sectors; and (c) literacy and school enrolment rates for women and girls. Please indicate the specific steps taken to eliminate persistent adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men.**

**(a) Measures taken to improve women's status in the political, economic and social life of the country**

37. The Gambia has taken numerous measures to improve women's status in the political, economic and social life of the country. A specialised Government department called the Women's Bureau has been set up since 1980 tasked with the responsibility of advising government on the well-being of women and girls.

38. Similarly, a National Women's Council has been established by the National Women's Council Act 1980 amended in 2010. The Council is composed of 65 members with 8 nominated councillors representing the interests of women countrywide. The Act mandates the Council to develop methods for the integration and implementation of gender and women's rights initiatives in all areas of government activities, to initiate education for all public officers and authorities regarding equality between women and men, examine and study the economic, social and cultural structure of the society and advise the government on areas where the participation of women should be encouraged and strengthened.

39. Section 28 of the Constitution also provides for the right to equal treatment with men, including equal opportunities in political, economic and social activities. Section 33 of the Constitution also prohibits discrimination inter alia on the basis of gender.

40. In 2010, The Gambia also enacted the Women's Act which is dedicated to the advancement of the rights and welfare of women. Some of the salient provisions of the Act include the right to dignity, access to justice and equal protection before the law, right to moveable and immoveable property, right to freedom of expression, protection from violence, prohibition of discrimination, right to health and health care services, the rights of women in rural communities, right to marry, special protection of elderly women, women with disabilities and women in distress.

41. In addition to the Constitutional and legislative measures, The Gambia adopted the National Policy for the Advancement of Gambian Women 2010–2020 which focuses on gender as a development concept and the participation of women and men in an equal and equitable manner for economic, political and social development of the Gambia.

Furthermore, one of the policy's guiding principles is to take affirmative action to redress historical and traditional forms of discrimination against women and girls in political, education, economic and other social spheres.

**(b) The percentage of women employed in decision-making positions both private and public sector**

42. The Women's Act 2010 requires the State to ensure that women are adequately represented in the judiciary and enforcement organs of the state, it is also a directive principle of state policy to ensure that women are fairly represented and involved in decision-making positions.

43. Currently only 4 out of 20 Cabinet Ministers in the Government are women. However, since 1997 to date, the position Vice President of the Gambia has been occupied by a woman.

44. At the National Assembly, although the current Speaker is a woman, it is disappointing to note that there are only five female National Assembly Members.

45. In the Judiciary and legal sector, out of a total of 20 Judges, there are currently 8 female judges in the Superior courts of The Gambia, with one sitting in the Supreme Court and one serving as President of the Court of Appeal. In the subordinate courts, 42 out of the total of 22 Magistrates are women.

46. For the first time in the history of the Gambia legal profession, both the current President and Vice president of the Gambia Bar Association are women.

**(c) Provide information on measures taken to improve Literacy and school enrolment rates for women and girls**

47. The Constitution provides for the right to equal educational opportunities. The Constitution further provides for free basic education for all and the encouragement of functional literacy. It is also directive principles of state policy to ensure basic education for all citizens and provision of adequate resources so that such tuition for basic education shall be free for all citizens. In addition to the constitutional provisions, the Children's Act also provides for the right to education.

48. The Gambia education polices 2004–2015 and 2016–2030 aims to promote broad-based education at the basic level for lifelong learning and training and mainstreaming gender in the creation of opportunities for all to acquire literacy, livelihood skills and the utilisation of these skills in order to earn a living and become economically self-reliant members of the community. One of the policy's objectives is to introduce a School Improvement Grant (SIG) in order to make basic education free in all government and grant-aided schools. There will also be established a bursary scheme for girls which will cover the cost of uniforms and stationery especially for girls in the rural area.

49. As a result of the measures taken to improve literacy and school enrolment rates, an increase has been recorded in the enrolment of girls in lower basic education from with 5.5% per-annum between the years of 2010 to 2015. The Gross Enrolment Ratio for girls increased from 89.1% in 2010 to 103.5% in 2015 with girls now representing over 50% of enrolment in formal lower basic schools. It has also been recorded that the ratio of boys to girls in senior secondary level is 1:1 in senior secondary level.

**Specific steps taken to eliminate persistent adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men**

50. In a bid to eliminate adverse cultural norms, the Women's Act 2010 specifically provides under section 14(3) (e) that it is the Governments obligation to eliminate all forms of discrimination especially all forms of stereotypes and acts of discrimination which perpetrate or tend to perpetrate gender inequality. In addition to the massive sensitization of grassroots by government and non-governmental organisations on harmful traditional practices such as Female Genital Mutilation (FGM) and Child Marriage, the Women's Act

2010 has been amended to criminalise female circumcision. Furthermore, the Children's Act 2005 was also amended to criminalise Child Marriage and betrothals.

51. It is also a directive principle of state policy to especially encourage girls to go to school by providing free education. In addition to the Constitutional provisions, the Children's Act also provides for the right to education.

52. Furthermore, organisations such as the Female lawyers Association, Think Young Women, Network Against Gender Based Violence, Women's Bureau have over the years been engaged in major sensitization of the Women's Act to challenge the notion of patriarchy in The Gambian society and through the National Women's Council, women in all districts of the country are represented in this council with the view to engaging women in their community and promote their participation in their communities in decisions affecting them.

**Paragraph 9: Please respond to information that issues relating to marriage, divorce, inheritance, marital property, adoption, burial and devolution of property upon death are regulated by sharia or customary law which contain provisions that discriminate against women. What steps are being taken to repeal such provisions which are reported to have been codified in the Women's Act, 2010? What measures have been taken to eliminate the harmful practices of child marriage and levirate as well as to outlaw polygamy? Please also indicate the minimum age for marriage for boys and girls.**

**Issues relating to marriage, divorce, inheritance, marital property, adoption, burial and devolution of property upon death regulated by sharia or customary law which contain provisions that discriminate against women**

53. Section 7 of the Constitution provides that the laws of the Gambia consist of amongst others Customary Law so far as it concerns members of the communities that it applies. The same provision provides for the application of Sharia law as regards matters of marriage, divorce and inheritance among Muslims. It must be said that the provisions of the Sharia on the above matters are not considered to be discriminatory among the adherents of the faith to which it applies. As a result, section 33(5) of the Constitution and other laws such as the Women's Act 2010 are subject to personal law.

54. In addition, section 108 to 123 of the Children's Act 2005 regulates adoption procedures and the Children's Court makes decisions on adoption.

**What measures have been taken to eliminate the harmful practices of child marriage and levirate (marriage in which brother of a deceased man is obliged to marry his brothers widow) as well as to outlaw polygamy**

55. Child Marriage is criminalised by the Children's (Amendment) Act 2016. In addition to the prohibition, the Act also prohibits the betrothal of a child.

56. However due to deep rooted cultural practices among mainly uneducated rural families, legislative intervention and prosecution will not be a panacea to the problem of child marriage. It would take education and awareness to comprehensively deal with the issue. Accordingly, the Department of Social Welfare in collaboration with a number of institutions such as Think Young Women, FLAG, NGBV, Child Rights Unit of the Ministry of Justice have been engaged in advocacy and sensitization trainings highlighting the dangers of child marriage and encouraging parents to abandon the practice.

**Indicate the minimum age for marriage for boys and girls**

57. The Children's (Amendment) Act 2016 prohibits marriage of any person below the age of eighteen.

## Right to life (art. 6)

**Paragraph 10: Please state the steps taken to address cases of enforced disappearance and extrajudicial killings allegedly committed by the security forces, including the National Intelligence Agency and the National Drug Enforcement Agency, as well as paramilitary squads including those referred to as "Black Black" or "Junglers" who, among others, targeted political dissidents and journalists. Please provide detailed information on: (1) the number of investigations launched against the alleged perpetrators; (2) the type of charges brought against them; (3) the number of cases dismissed and the reasons for their dismissal; (4) the number of perpetrators that have been convicted and the nature of the sentences; and (5) whether victims have been adequately compensated and/or rehabilitated.**

58. Since January 2017, various measures have been undertaken to address reported cases of human rights violations particularly as it pertains to cases of enforced disappearances and extrajudicial killings carried out by the security apparatus.

59. As soon as the new Government took office in January 2017, a Missing Persons Taskforce was constituted to receive and document reports of missing and disappeared persons. Furthermore, an investigation was launched into the brutal crackdown of a peaceful opposition protest march in April 2016, which led to the death in custody, of opposition Activist, Ebrima Solo Sandeng. Following the investigation, nine former senior officials of the National Intelligence Agency are being prosecuted for the death of Ebrima Solo Sandeng and the torture of other opposition members.

60. The Gambia Armed Forces and the Police also constituted a joint investigations taskforce into the activities of the former Paramilitary squad known as the 'Junglers'. Further to the above, with the adoption of the TRRC Act, as part of its mandate the Commission is expected to issue recommendations for the prosecution of perpetrators of human rights violations.

61. However due to the complex nature of the crimes that were perpetuated, a more systematic and focused investigation is needed to uncover all the surrounding facts. Thus, the Truth, Reconciliation and Reparations Commission is mandated to investigate and establish an impartial historical record of the nature, causes and extent of violations and abuses of human rights committed during the period July 1994 to January 2017 and to consider the granting of reparations to victims and for connected matters.

**Paragraph 11: Does the new Government plan to bring article 18 of the Constitution, which allows a great measure of discretion in the use of force by law enforcement officials, into conformity with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials? Please provide information regarding the other legal standards applied in the State party for the appropriate use of force and firearms by law enforcement officials and the source of those standards in domestic law. What progress has been made with the revision of the 'Code of Conduct for the Ministry of the Interior and Security Services under the Purview of the Ministry"? Please explain what steps the State party has taken to ensure that such standards are respected by law enforcement and security personnel in practice.**

62. As part of the measures adopted for the transitional justice period a Constitutional review process will be undertaken with the view to developing a new Constitution to ensure that its provisions are in line with best practice.

**Paragraph 12: Information before the Committee indicates that notwithstanding a de facto moratorium that had been in place when the death penalty was re-introduced in 1995, the State party in August 2012 executed 9 inmates on death row at Mile Two State prison. Information also indicates that a conditional moratorium was announced in September 2012, and that the death penalty may be imposed for crimes not involving intentional killing and is in some cases mandatory. Is there currently an official moratorium in place on the death penalty? Please indicate whether the State party intends to abolish the death penalty and accede to the Second Optional Protocol to the Covenant. Furthermore, please provide statistical data on the number of individuals on death row, the type of offences they committed, and whether the death penalty was mandatory for those offences.**

63. One of the first commitments made by the new Government was the intention to abolish the death penalty. In furtherance of that political commitment, the President of The Gambia signed the Second additional protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty in September 2017 at the sidelines of the United Nations General Assembly. In his speech at the 53rd independence celebration of the Gambia on February 18th 2018, the President officially announced a moratorium on the application of the death penalty and commuted the sentences of all persons on death row to life imprisonment.

64. However, since the death penalty is provided for in the Constitution, its abolition will involve a constitutional amendment. Given the ongoing Constitutional review process, it is expected that the political commitment to abolish the death penalty will be given Constitutional validity in the new Constitution.

65. Currently, there are twenty-three (23) prisoners sentenced to death, out of which twenty one (21) were convicted for murder; one (1) for unlawfully causing death and one (1) for manslaughter. All these offences are punishable by death penalty.

## Violence against women, including domestic violence (arts. 3, 6, 7, 14 and 26)

**Paragraph 13: Following the enactment of the Domestic Violence Act and the Sexual Offences Act in December 2013, please explain the concrete steps taken to address the problem of violence against women including domestic violence in the State party. Please provide information on: (a) the number of complaints lodged by victims of such violence; (b) the number of persons prosecuted and convicted; (c) measures taken to provide rehabilitation and reparation to victims; (d) the number of temporary restraining orders issued and violated; and (e) the number of shelters available to victims of such violence. Please also indicate if the State party provides special training programmes designed for law enforcement officials on the handling of female victims of violence, including domestic violence.**

66. Since the commencement of the Domestic Violence Act 2013 the number of complaints lodged by victims of Domestic Violence in The Gambia cannot be provided as the data is yet to be complied.

67. According to the 2013 DHS, 4.6% of people aged 15–59 had experienced Sexual violence in the 12 months preceding the report.

68. Data collected by Network against Gender Based Violence illustrates as follow the rate of Gender Based Violence in the country.

| *Year* | *Data recorded* |
|---|---|
| 2013 (Oct. – Dec.) | 12 |
| 2014 (Jan. – Dec.) | 382 |
| 2015 (Jan. – Dec.) | 366 |
| 2016 (Jan. – Sept.) | 403 |
| 2017 (Jan. – Sept.) | 334 |
| **Total** | **1 497** |

*2013 = 3 sexual violence cases*
*2014 = 92 sexual violence cases*
*2015 = 203 sexual violence cases*
*2016 = 153 sexual violence cases*
*2017 = 138 sexual violence cases*
*Total number = 589 cases of sexual violence*

69. The Domestic Violence Act provides for compensation to be provided to victims of domestic violence however it is yet to come into effect.

70. No temporary restraining orders have been issued.

71. Currently the Shelter for the Elderly and Children in Bakoteh is the only place available providing shelter for victims of such forms of violence. However, the Domestic Violence Act provides for protection orders to be given to victims of domestic violence allowing them to remain in their place of residence without the perpetrator.

72. It must be noted that the enforcement of the Domestic Violence and Sexual Offences Acts is particularly challenging for law enforcement agencies. Due to deep rooted cultural practices among some communities, such cases are mostly unreported. Even where such cases are reported, prosecution of such cases become challenging due to the unwillingness of some families to subject themselves to the court process due to family and societal pressures. Notwithstanding, a number of sensitisation and awareness raising initiatives have been undertaken by the Governmental and non-governmental organisations. The Ministry of Justice in collaboration with UNICEF has conducted a series of nationwide trainings for law enforcement officials on the handling of female victims of violence under the Domestic Violence Act 2013 and the Sexual Offences Act 2013.

**Paragraph 14: According to information before the Committee, female genital mutilation (FGM) is widespread in the State party and about 80 per cent of women and girls between the ages of 15 and 19 have undergone the procedure. Following the adoption of the Women's Amendment Act of 2015, which prohibits FGM, please indicate the concrete steps taken to eliminate FGM and provide information on (a) the number of complaints lodged against alleged perpetrators; (b) the number of persons prosecuted and convicted; and (c) the nature of sanctions imposed and measures to rehabilitate victims. Please provide an update on the case before the Mansankonko High Court in the Lower River region in which Sunkaru Darboe and Saffiatou Darboe were charged with various criminal offences when a five month old child died from the effects of FGM in Kiang West.**

73. In 2015 Female Genital Mutilation (FGM) was prohibited under the Women's (Amendment) Act. Section 32B of the Act prohibits the practice in all its forms and any person found culpable is liable on conviction to a term of three years imprisonment or to a fine of Fifty Thousand Dalasis or both. Where the act results to the death of the victim, the perpetrator is liable to life imprisonment. The Act also imposes a legal duty to report that the act has been done or is being done or about to be done.

74. So far, only one case has reached the courts (State vs. Sunkaru Darboe and Saffiatou Darboe) at the Mansakonko High Court. However, the case was subsequently withdrawn by the State largely due to insufficient evidence.

75. Again, it will take time to eradicate the practice of FGM considering the deep-rooted nature of the practice in our society. Legislative intervention will not be a panacea to the problem as long as the practitioners are not sensitised on the dangers of the practice. Through education and greater sensitisation of the health consequences of the practice, it is hoped that with time, the practice of FGM will be a thing of the past. Accordingly, the Government and its partners such as Think Young Women, FLAG, Ministry of Justice, Women Bureau, CPA, DSW, Girls Agenda, Safe Hands for Girls, NGBV amongst others continue to sensitise communities against the practice of FGM.

## Termination of pregnancy

**Paragraph 15: Please provide updated data on the rates of infant and maternal mortality, disaggregated by cause of death, and information on measures taken to reduce these phenomena. Please provide information on specific measures being taken to revise legislation, which criminalizes abortion except when the life or health of the pregnant woman is at risk. Please also provide data on the extent to which the restrictive legal regime on abortion contributes to the high maternal mortality in the State party. Please report on awareness-raising efforts and steps taken to ensure that men, women and adolescents in all parts of the State party have access to contraceptives, and sexual and reproductive health education and services.**

**Data on the rates of infant and maternal mortality, disaggregated by cause of death, and information on measures taken to reduce these phenomena**

76. Maternal and Antenatal health care is freely offered in all Government health centres. Primary and secondary health care has also significantly expanded, and increased immunization has reduced mortality rates. Great achievements have been registered in access to basic health care however Primary Health care has deteriorated substantially.

77. Mortality and causes of death data and the denominator is the total live births from the 2015 Mid-year population estimates. The formula is represented below:

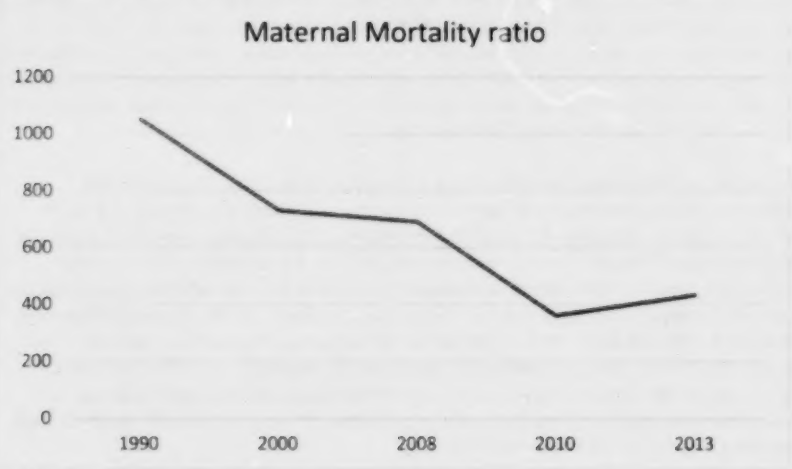



*Table: Maternal Mortality ratio.*

78. The number of women who died as a result of complications during pregnancy or childbearing decreased from 1050 per 100 000 in 1990 to 433 per 100 000 in 2013.

79. The Sustainable Development Goals (SDGs) Baseline Reports 2017 has targeted by 2030, to end preventable deaths of new-borns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1 000 live births and under-5 mortality to at least as low as 25 per 1 000 live births.

80. Number of children who died before they reached their 5th birthday, divided by the number of live births in a given year, multiplied by 1 000. The data available shows the mortality rate at 54 per 1 000 live births.

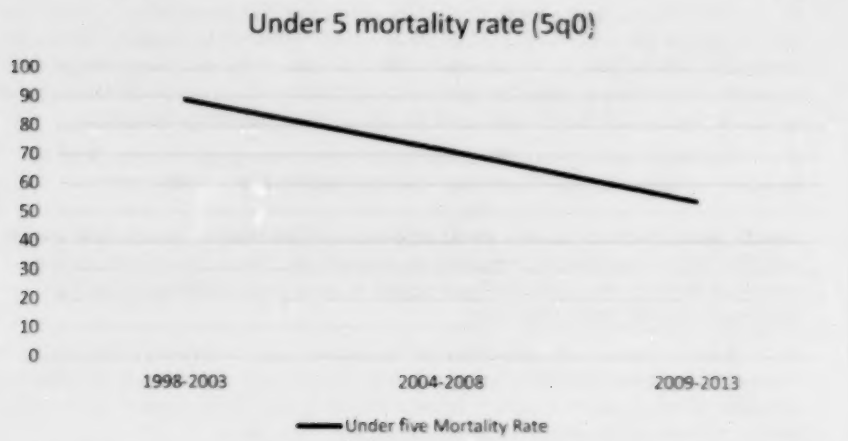



*Figure 5 mortality rate (5q0)*

81. The number of children who died before reaching their 5th birthday decreased from 89 per 1 000 live births to 54 per 1 000 live births in 2009–2013.

82. The Sustainable Development Goals (SDGs) Baseline Reports 2017 has targeted in the by 2030 to end preventable deaths of new-born and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1 000 live births and under-5 mortality to at least as low as 25 per 1 000 live births.

**Neonatal mortality rate (NMR)**

83. **Definition:** Probability that a child born in a specific year will die during the first 28 days of life if subjected to age-specific mortality rates of that period, expressed per 1 000 live births. Data available shows this to be 22 per 1,000 live births. The number is reached by dividing total live births and number of children who die during the first 28 days of life, multiplied by 1 000.

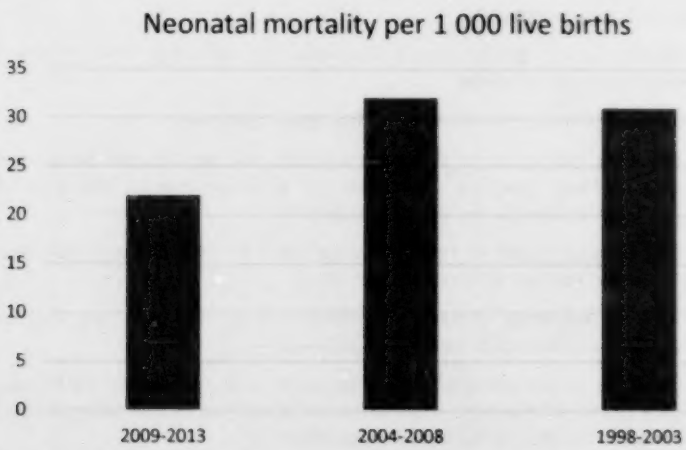



*Figure Neonatal mortality per 1 000 live births.*

84. From the figures provided, in comparison with other countries in the sub-Saharan region, childhood mortality is relatively low in The Gambia. Under-5 mortality for the period 0–4 years before the 2013 GDHS survey, which corresponds approximately to the calendar years 2009–2013, is 54 deaths per 1,000 births.

85. Following the usual pattern, most of the early childhood mortality occurs in the first year of life; the infant mortality is 34 deaths per 1,000 births, while mortality between the first and the fifth birthday is 20 deaths per 1,000. As expected, neonatal mortality (mortality during the first month) is higher than post neonatal mortality (22 deaths per 1,000 compared with 12 deaths per 1,000), representing 65 per cent of the overall infant mortality.

86. Data from Registration of Birth and Death Unit shows that the from the 2018 HMIS the infant mortality rate is 1.95% and the Maternal mortality rate is 2.38%.

**Specific measures being taken to revise legislation, which criminalizes abortion except when the life or health of the pregnant woman is at risk. Please also provide data on the extent to which the restrictive legal regime on abortion contributes to the high maternal mortality in the State party**

87. Due to religious considerations of the Islamic and Christianity faith which is practised by almost all Gambians, abortion is still illegal in the Gambia except when the life or health of the pregnant woman is at risk. Therefore, the Government is yet to adopt specific measures to revise legislation, which criminalizes abortion.

**Awareness-raising efforts and steps taken to ensure that men, women and adolescents in all parts of the State party have access to contraceptives, and sexual and reproductive health education and services**

88. The Gambia Family Planning centre provides free contraception and advice to members of the public on sexual and reproductive health education. Measures envisaged to further increase availability and accessibility of age appropriate comprehensive sexual and reproductive health and rights education and family planning and contraceptive use are:

(a) Production of services manuals on adolescence and family planning for services providers;

(b) Awareness creation in communities using community radios and traditional communicators;

(c) Expansion of services delivery points (outreach services, clinics & health centres) in the communities to improve access to family planning and adolescent health services;

(d) Maintaining uninterrupted supply of method mix contraceptive at various levels of care including the community;

(e) Making major health centres functional by providing Comprehensive Emergency Obstetric care services; and

(f) Training of service providers on contraceptive technology;

(g) By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes;

(h) Proportion of women of reproductive age (aged 15–49 years) who have their need for family planning satisfied with modern methods;

(i) 7.1% the percentage of women of reproductive age who have their need for family planning satisfied with modern methods of contraception;

(j) By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.

89. From the 2013 DHS, 71% of the proportion of women of reproductive age (aged 15–49 years) has their need for family planning satisfied with modern methods 7.1%.

## Prohibition of torture, cruel, inhuman or degrading treatment; liberty and security of persons and treatment of persons deprived of their liberty (arts. 7, 9 and 10)

**Paragraph 16: Please provide information on the release of political prisoners after the new Government took office. Please provide information on the measures taken to amend the Criminal Code (Act No. 25 of 1933) in order to include torture as a criminal offence. Please also provide information on other specific measures taken to prevent and punish the persistent acts of torture in places of deprivation of liberty. What measures have been taken to address the rampant use of prolonged detention without trial, incommunicado detention and ill-treatment as well as the high numbers of deaths in custody? Please describe the measures taken to provide training to police and prison officers on the prevention and prohibition of torture. Please also provide disaggregated statistical data on the number of criminal prosecutions and disciplinary measures taken against law enforcement officials who are alleged to have committed acts of torture and ill-treatment.**

**Release of political prisoners after the new Government took office.**

90. All political prisoners have been released in The Gambia since January 2017 and so there are currently no political prisoners.

**Measures taken to amend the Criminal Code (Act No. 25 of 1933) in order to include torture as a criminal offence.**

91. The Government of The Gambia has made a commitment to criminalise torture. Accordingly, The Gambia has already initiated moves to complete the process of accession to the Convention against Torture before the end of 2018. The criminal justice reform program undertaken by the Government specifically has the mandate to include torture as part of our criminal laws.

**Specific measures taken to prevent and punish the persistent acts of torture in places of deprivation of liberty**

92. Following the enactment of the National Human Rights Act 2017, a National Human Rights Commission is being set up for the first time in The Gambia with the broad mandate to promote and protect Human Rights in The Gambia.

93. To prevent acts of torture in places of torture and arbitrary detention, the Gambia Police Force, National Intelligence Agency and the Gambia Prisons Services in partnership with human rights organisations such as the Institute for Human Rights and Development in Africa continue to train its officials and senior management on best practice standards on human rights best practices. The Prison Fellowship has also undertaken a nationwide visit to all its detention centres.

94. The police force has also developed a human rights training manual and Bekanyang, a civil society organisation has also provided it human rights learning materials.

On the NIA, since 2017 the agency no longer carries out acts of arrest or detention.

95. Further, the Gambia Police Force has a Human Rights Unit conducting advocacy, monitoring human rights adherence of the force. The Unit also receives complaints of human rights abuses by its officials and currently receives on average four complaints per day.

96. The police force has reported one case of torture of a detainee and the two officials involved in the case have been demoted in rank one from a sergeant to a corporal and the other from a corporal to a first class officer.

**Measures taken to provide training to police and prison officers on the prevention and prohibition of torture**

97. Continuous sensitization workshops and trainings have been conducted for prison officials on prison management systems and Human Rights in General and the prevention and prohibition of torture has been a wide topic of discussion in these trainings.

**Disaggregated statistical data on the number of criminal prosecutions and disciplinary measures taken against law enforcement officials who are alleged to have committed acts of torture and ill-treatment**

98. Currently, the only criminal prosecution being undertaken relates to the case of nine former National Intelligence Agents who are undergoing trial for murder, torture and ill-treatment of detainees in 2016. Since torture is not part of our criminal law, the charges are not specific to torture but grievous bodily harm.

**Paragraph 17: Please explain the measures taken to prevent unlawful arrests by the police and other law enforcement officials particularly the National Intelligence Agency. Please state the remedies available to victims of unlawful or arbitrary arrests, and the measures taken to ensure that arrested persons are promptly brought before a judge.**

**(a) Please explain the measures taken to prevent unlawful arrests by the police and other law enforcement officials particularly the National Intelligence Agency**

99. The Constitution of The Gambia under Section 19 provides measures protecting the right to personal liberty especially when a person is arrested or detained. Section 19 (3) provides that any person arrested or detained should be brought before a court within 72 hours.

100. To regulate detention practices, the Police Training manual contains procedures on arrest and detention. Further, the police conduct continuous trainings with civil society organisations such as TANGO on procedures of arrest and detention to combat this practice.

101. Further, since 2017 the National Intelligence Agency no longer exercises the power to carry out arrest and detention.

**(b) Please state the remedies available to victims of unlawful or arbitrary arrests, and the measures taken to ensure that arrested persons are promptly brought before a judge**

102. Under section 18 (6) of the Constitution, victims of unlawful arrest or detention are entitled to compensation from the person or authority on whose behalf that other person was acting. Further to this, section 37 of the Constitution provides enables persons who have been unlawfully detained or arrested to apply to the High Court for redress. In particular, section 37 (2) enables an application to be made on behalf of a person who has been detained.

103. Additionally, victims of unlawful arrest or detention can also the Office of the Hon. Attorney General to seek address for the wrong done to them. In addition, victims of unlawful arrest or detention of the former government can report such cases to the soon to be established TRRC.

**Paragraph 18: Please provide information on measures taken to address the alleged inhuman conditions of detention, overcrowding, lack of appropriate health and sanitation services in the State party's prisons, particularly in Mile Two State Prison. What steps have been taken to ensure the separation of juveniles on remand from adults, in line with the Covenant and international standards? Please also provide information on the degree to which independent monitoring groups have access to prisons and detention centres, and on the State's party's plans to ratify the Optional to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.**

**(a) Please provide information on measures taken to address the alleged inhuman conditions of detention, overcrowding, lack of appropriate health and sanitation services in the State party's prisons, particularly in Mile Two State Prison**

104. To address prison overcrowding, the detention of political prisoners and other human rights violations occurring at the country's detentions centres the government in 2017 embarked on the mass release of prisoners with three hundred and eight prisoners been released subsequently which included all political prisoners. This has led to the decongestion of the prisons and detention centres.

105. Furthermore, to address past human rights violations in prisons, the Prison Act is currently been reviewed with the view to bringing it in line with best practice standards. Also as part of the capacity building of the transitional justice, prison authorities are amongst those targeted. Furthermore, as it of the institutional reform, the prison system is targeted to move it from a punitive institution to a corrective one.

**(b) What steps have been taken to ensure the separation of juveniles on remand from adults, in line with the Covenant and international standard**

106. Male juveniles are detained at the Juvenile Wing located in Old Jeshwang while female juveniles are detained at the Bakoteh Shelter for children.

**(c) Please also provide information on the degree to which independent monitoring groups have access to prisons and detention centres, and on the State's party's plans to ratify the Optional to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment**

107. The Gambia has extended numerous invitations to human rights bodies of the UN and the African Commission on Human and Peoples Rights to visit prisons and detention centres in the country.

108. In 2017, a delegation from the African Commission on Human and Peoples' Rights visited the country and were given unlimited access to all the prisons and detention centres.

109. In 2017, the Special Rapporteur on Truth, Justice, Reconciliation and Non-Recurrence and the Working Group on Enforced Disappearance or Involuntary Disappearance both conducted a visit the Gambia and were granted access to all prisons and detention centres.

110. The ratification of the Optional to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment forms part of the transitional justice program.

## Elimination of slavery and servitude (art. 8)

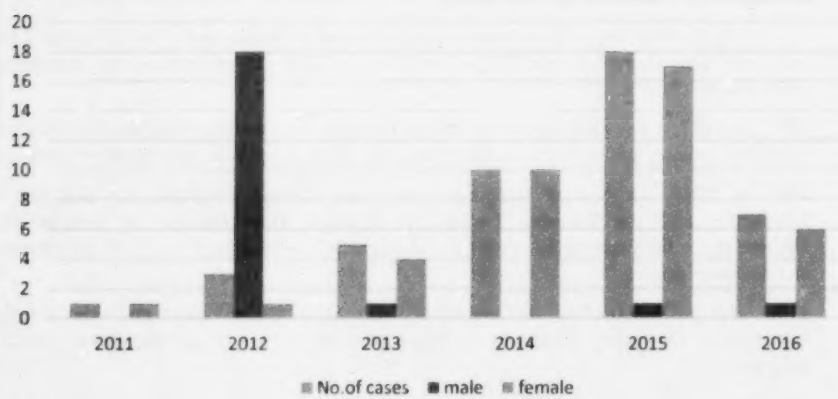
**Paragraph 19: Information before the Committee indicates that the State party remains a source and destination country for human trafficking, particularly for purposes of sexual exploitation and forced labour. Please indicate the impact that the implementation of the Trafficking in Persons Act, 2007, as amended in 2010, the Children's Act, 2005 and the Tourism Offenses Act, 2003 have had in combating trafficking in persons, particularly in the protection of children from sex tourists. Please provide statistical information on the prevalence of human trafficking and forced labour disaggregated by gender, age and country of origin of the victims; the number of complaints, investigations, prosecutions, convictions and punishments; and the number of victims who have received assistance in the form of reparation and rehabilitation. Please state the steps taken to formulate procedures for the identification of victims of trafficking and to employ counter-trafficking measures, including training programmes for authorities in the National Agency against Trafficking in Persons, and to raise public awareness.**

**(a) Please indicate the impact that the implementation of the Trafficking in Persons Act, 2007, as amended in 2010, the Children's Act, 2005 and the Tourism Offenses Act, 2003 have had in combating trafficking in persons, particularly in the protection of children from sex tourists**

111. These Acts have codified the offences relating to Trafficking in Persons providing punishments for persons found guilty of such an offence. The Acts have also provided concrete guidelines and procedures to guide in the identification and prosecution of perpetrators. Furthermore, it has provided the several actors involved in programs combating Trafficking in Person with the legal backing to conduct advocacy programs.

**(b) Please provide statistical information on the prevalence of human trafficking and forced labour disaggregated by gender, age and country of origin of the victims; the number of complaints, investigations, prosecutions, convictions and punishments; and the number of victims who have received assistance in the form of reparation and rehabilitation**

112. In The Gambia, the numbers of reported cases are as follows:




*No. of cases by sex.*

**(c) Please state the steps taken to formulate procedures for the identification of victims of trafficking and to employ counter-trafficking measures, including training programmes for authorities in the National Agency against Trafficking in Persons, and to raise public awareness**

113. Through proactive investigations and the inter-agency taskforce comprising of various Institutions victims are usually identified by Officers frequently by their demeanour as they are usually nervous found around border crossing points such as the airports. From the discovered cases, it is usual for victims of human trafficking to not have the required documentation at the time of travel and Officers have observed that victims of human trafficking usually have minimal luggage and are accompanied by an elderly person who speaks of the victim's behalf, controlling the victim throughout the process.

114. As part of counter trafficking measures, the National Agency against Trafficking in Persons (NAATIP) with the assistance of international partners such as UNICEF has organised a series of training activities for law enforcement officials to build capacity in the prevention and detection of Trafficking in Persons. NAATIP also organizes sensitisation missions for communities around border posts to sensitize them on the dangers of human trafficking.

**Paragraph 20: According to information before the Committee, during President Jammeh's term in office, the Secretary-General in the Office of the President issued a circular to all civil servants instructing all heads of departments, ministries and state-owned enterprises to take their staff to the President's home village in Kanilai to work on his farm. Please provide information on measures taken to compensate those individuals who were subjected to forced labour at the former president's farm.**

115. Since the new government took office, this practice has been stopped. However, as part of Truth and Reconciliation process, individuals affected by this policy can bring their complaints before the Commission for reparations to be granted.

## Refugees and asylum seekers (art. 13)

**Paragraph 21: Please provide information on the progress made to establish transit centres for refugees and asylum seekers as well as to provide adequate resources to the Gambia Commission on Refugees. Please provide an update on the treatment of refugees who fled from the conflict in the province of Casamance in Senegal.**

**Information on the progress made to establish transit centres for refugees and asylum seekers as well as to provide adequate resources to the Gambia Commission on Refugees**

116. The Gambia Commission for Refugee (GCR), which is responsible for the security and protection of refugees in The Gambia, has been in existence since 2008. The Commission in its bid to provide a good protection environment to refugees issues visitors pass (laissez passer), refugee ID cards and conventional travel documents to refugees which enables them to move freely within the ECOWAS member states.

117. However, the Commission is constrained in its efforts to safeguard the interests of refugees due to inadequate funds and logistics. The country also lacks transit centres for refugees and asylum seekers in both the rural and urban areas.

118. The Government, in realization of the precarious situation of refugees and being mindful of its commitments under international law and domestic legislations continues to heavily invest in refugee management issues with a view to providing them with favourable protection as they search for the most appropriate durable solution.

119. The government through the Ministry of Health and Social Welfare, provides refugees equal access and treatment in terms of cost of treatment in all government hospitals and health facilities as accorded to its citizens.

120. The Government of The Gambia through refugee host community leadership has been assisting refugees to integrate locally in The Gambia by providing them with land to build their homes and to farm on. Furthermore, the United Nations High Commission for Refugees facilitates the local integration of refugees through various livelihoods support.

**Update on the treatment of refugees who fled from the conflict in the province of Casamance in Senegal**

121. During the Senegalese refugee influx in 2011 from Cassamance Senegal, the Government provided material assistance such as food, shelter, clothing and free medical care. Senegalese refugees from the region of Cassamance numbering around twelve thousand (12,000), form the greater part of refugee population in The Gambia.

## Independence of the judiciary and the right to a fair trial (art. 14)

**Paragraph 22: Information before the Committee indicates that a system of contract judges — up to the level of the Chief Justice — has long been followed where judges are brought in from abroad and are employed on the basis of contracts which are renewable at the pleasure of the Government, thus undermining the independence of the judiciary. Has this system been abolished by the new Government and if not are there plans to do so? There are reports of rampant corruption, and executive interference in the judiciary such that judges and magistrates have previously been arrested, detained or threatened with dismissal because they issued orders considered to be unfavourable to the government. Please provide information on specific measures taken to guarantee the independence and impartiality of the judiciary, including ensuring that rules relating to appointment and removal of judges are in line with the Basic Principles on the Independence of the Judiciary. What specific measures are being taken to (a) address the lack of judges and to clear the huge backlog of cases; (b) combat corruption in the judiciary; and (c) address the lack of material resources to run courts? What is the status of the Judges Remuneration Allowances and Other Benefits Bill 2014, which reportedly seeks to make provision for the terms and conditions of service of judges, and, therefore, to guarantee tenure of office?**

**The system of contract Judges**

122. As part of the Government's commitment to ensure the independence of the Judiciary, the system of contract judges that existed in the judiciary during the former regime has now been abolished.

**Measures being put in place to guarantee the independence and impartiality of the judiciary in the following ways**

123. Since the appointment of the new Chief justice of the Gambia, he has instituted a number of measures to ensure the independence and impartiality of the judiciary such as:

(a) The reconstitution of the Judicial Service Commission and the restoration of their Constitutional powers in relation to the appointment of Judicial officers, their disciplinary control and removal;

(b) The appointment of Judicial officials on pension, instead of the contract appointments that were the order of the day previously; and

(c) The exercise of budgetary autonomy.

**Specific measures being taken to address the lack of judges and to clear the huge backlog of cases**

124. In a bid to clear the backlog of criminal cases, the new Chief Justice has issued a Practice direction which requires that as opposed to the traditional subject matter divisions in the High Court, all High Court Judges shall hear criminal cases. The judiciary has also operationalised the decentralisation of the justice delivery system by opening High Courts

in the Regions in order to improve access to Judicial remedies. The Judiciary is also engaged in discussions to upgrade the incentives and terms and conditions for Judicial Officials to attract more Gambian legal experts to the Bench. Furthermore, as a short-term measure, with the return of the Gambia to the Commonwealth, the Judiciary has initiated a request for Judicial Officials on Technical Assistance from the Commonwealth Secretariat.

**Specific measures being taken to combat corruption in the judiciary**

125. One of the principal causes of corruption is the low remuneration of judicial officers. Therefore, the specific measures being taken to combat corruption in the judiciary include the revision of the incentives and terms and conditions of service of judicial officers. Secondly, a Judicial Ethics Committee has been constituted with the mandate to receive complaints against Judicial officials and recommend disciplinary measures to the Judicial Service Commission.

**Status of the Judges Remuneration Allowances and Other Benefits Bill 2014, which reportedly seeks to make provision for the terms and conditions of service of judges, and, therefore, to guarantee tenure of office**

126. The Judges Remuneration Allowances and Other Benefits Bill for the terms and conditions of service of judges is currently under review by the Judicial Service Commission and will subsequently be submitted to Cabinet and the National Assembly for enactment.

**Paragraph 23: Please explain the measures taken to ensure that suspects in criminal cases have access to a lawyer during the initial stages of detention and that accused persons, including those facing a capital murder charge, benefit from legal aid through the National Agency for Legal Aid. Please respond to reports that lawyers have been subjected to arrests, detention and harassment in the State party. What measures are in place to ensure that lawyers can provide legal services without being subjected to intimidation and harassment by law enforcement officials?**

**Measures taken to ensure that suspects in criminal cases have access to a lawyer during the initial stages of detention and that accused persons, including those facing a capital murder charge, benefit from legal aid through the National Agency for Legal Aid**

127. The National Agency for Legal Aid which is established under the Legal Aid Act 2007 provides legal assistance to both detainees and Accused Persons charged with capital offences such as murder and treason. Upon receipt of information from family members with respect to a suspect detained at the Police Stations, officials from NALA conduct visits to ensure the maximum seventy-two hours (72) period is adhered to and where necessary, ask them to refer the matter to court. They also conduct prison visits for pre-trial interviews with clients and also conduct general routine visits to the Prisons on a weekly basis. Furthermore, the Mobile- Clinics being conducted by the Agency afford them the opportunity to visit the Police Stations in the Regions across the Country.

128. The Agency provides pre-trial legal services for all children arrested however, with respect to adults it is subject to an order of the court as and when required.

**Measures in place to ensure that lawyers can provide legal services without being subjected to intimidation and harassment by law enforcement officials**

129. On the advent of the new dispensation in the Gambia, the Government has committed itself to ensuring respect for the rule of law and human rights. Accordingly, from January 2017, there has been no report of lawyers being arrested or subjected to intimidation and harassment by law enforcement officials.

**Paragraph 24: Please clarify whether decisions taken by Cadi courts, including the Cadi Appeals Panel, which are in charge of applying Sharia, can be reviewed by ordinary courts. What mechanisms are in place to ensure the free consent of the parties, in particular of women, to the adjudication of their cases by Cadi courts? What measures are being taken to review decisions rendered by military courts against persons accused of crimes against national security, which allegedly did not comply with due process and fair trial guarantees? Decisions by the Cadi Appeals Panel are not being subjected to further any further review by the ordinary courts.**

**Whether decisions taken by Cadi courts, including the Cadi Appeals Panel, which are in charge of applying Sharia, can be reviewed by ordinary courts**

130. As it stands right now, the Cadi Appeals Panel is the final Court of adjudication with regards issues sharia of sharia. They review decisions from the Cadi Courts and their decisions are final.

**What mechanisms are in place to ensure the free consent of the parties, in particular of women, to the adjudication of their cases by Cadi courts**

131. By virtue of the Women's Act of 2010, women have the right to access justice be it at the tribunals, cadi courts or conventional courts. Considering the fact that Sharia is recognised as one of the laws of the land as it extends to Marriage, Divorce and Inheritance, women can approach the cadi courts as it relates to any of the above mentioned. In the same vein, the Women's Act gave jurisdiction to the High Court for the adjudication of any matter arising from it thus extending the options women have in accessing the courts.

**Measures being taken to review decisions rendered by military courts against persons accused of crimes against national security, which allegedly did not comply with due process and fair trial guarantees**

132. Since January 2017, all military personnel convicted under the court martial during the former regime have received a Presidential pardon and have all been released.

## Freedom of opinion and expression, and freedom of association (arts. 19 and 22)

**Paragraph 25: According to information before the Committee, journalists and human rights defenders have been subjected to arrests, detention and harassment by law enforcement officials. Furthermore, due to legislation that restricts freedom of expression, journalists engage in self-censorship to, inter alia, avoid criminal defamation suits. Please provide information on measures taken to guarantee, in practice, the right to freedom of expression. In particular, please state the measures taken to (a) revise the Criminal Code (Amendment) Act, 2013 and the Information and Communication (Amendment) Act, 2013, which created new online offences including spreading "false news" about the government or public officials; and (b) revise the 2004 amendments to the Newspaper Act, which introduced exorbitant registration fees and bonds for media organisations.**

**Information on measures taken to guarantee, in practice, the right to freedom of expression**

133. Since the change of political dispensation, several media outlets have been established; two private television stations, radio stations and three newspapers. The Government is currently working with the Gambia Press Union to establish an independent Media Council to consolidate the gains in the entrenchment of media freedoms in The Gambia.

**Measures taken to (a) revise the Criminal Code (Amendment) Act, 2013 and the Information and Communication (Amendment) Act, 2013, which created new online offences including spreading "false news" about the government or public officials; and (b) revise the 2004 amendments to the Newspaper Act, which introduced exorbitant registration fees and bonds for media organisations**

134. The new Government of the Gambia has committed itself to upholding the highest standards of freedom of expression. As part of measures to reform the criminal and media laws of the country, a National Media Law Review Committee has been constituted under the auspices of the Ministry of Information and Communication Infrastructure to review all existing media laws that are inimical to freedom of expression. A parallel criminal justice reform exercised has also been instituted to reform the criminal laws of The Gambia in line with best international practices.

**Paragraph 26: Please provide information on measures taken to revise the 1996 decree on nongovernmental organisations which, inter alia, imposes a cumbersome registration process and requires non-governmental organisations to submit budgets and work programs to the government. What measures have been taken to re-consider the decision to place the supervision of non-governmental organisations under the Office of the President, which resulted in increased restrictions on their activities?**

135. The 1996 Act is currently under review with the view to bring its provisions in line with best practices.

## Measures for the protection of minors (art. 24)

**Paragraph 27: Please provide information on the concrete measures taken to address the problem of non-registration of children at birth, which leaves a high percentage of children, especially in rural areas, without birth certificates. Please provide information on the concrete measures taken to address obstacles to the registration of birth of children born out of wedlock, often resulting from the stigmatization faced by single mothers.**

136. The Births, Deaths and Marriages Registration Act of 1990 identifies the processes of registration and certification, the necessary documents required for the registration as well as the legal timeframe for registration and the penalties to be incurred for late registration. The Births and Deaths Registry under the Ministry of Health and Social Welfare is responsible for these registrations. In accordance with the Children's Act 2005, the birth of every child shall be registered and consequently, there is no fee attached to the registration of births of children 0 to 5 years in The Gambia. In order to get a full coverage especially in rural areas, sensitisation and awareness raising campaigns have been conducted to inform the general populace about the importance of birth registration and the penalty attached for late registration. The awareness raising also calls for the promotion of hospital or health centre delivery for ease of registration.

## Participation in public life (art. 24)

**Paragraph 28: Please provide information on measures being taken to ensure that elections are transparent and fair. Please specify the steps that have been taken to ensure that the Independent Electoral Commission is free from executive interference and enjoys financial autonomy. Please provide information on the role and status of opposition political parties.**

137. In a bid to ensure that elections are transparent and conducted in a free and fair manner, the Independent Electoral Commission has received the political commitment of the Government to guarantee its independence. It is expected that the IEC's independence and financial autonomy will be entrenched in the new Constitution that will be promulgated after the Constitutional Review process is completed.

138. Furthermore, to encourage fair elections and widespread participation of the ordinary citizenry, the Elections Act was amended in 2017 to reduce the exorbitant deposits payable by candidate for elected office. This has had a tremendous effect with the IEC registering a record number of candidates in the National Assembly and Local Government elections. There is a registered increase in the level of participation as for the first time in the electoral history, nine (9) political parties were registered for the local government elections of 2018.

139. Presently, there is an Interparty Committee comprising of Political Parties and their role is to determine Politicians' conduct, language used during campaign, to sit down and mediate and dialogue between political parties when there is a problem. Although it is independent, the IEC is assists it and has helped it to get a Secretariat and there plans to give it statutory backing.

## Non-discrimination towards LGBTI (arts. 2 and 26)

**Paragraph 29: Please provide updated information on the State party's efforts to decriminalize same sex relationships by repealing sections 144–147 of the Criminal Code, 1965, as amended in 2005. Please also describe measures taken to deal with stereotypes in society with regard to homosexuality, which is largely considered to be taboo and repugnant to cultural values and to protect lesbian, gay, bisexual — transgender and intersex (LGBTI) individuals from arbitrary arrests and violence. Please provide an update on the measures taken to adopt a comprehensive equality and non-discrimination law that expands the grounds for non-discrimination to include sexual orientation and gender identity Non-Discrimination towards LGBTI (arts. 2 and 26).**

140. The issue of LGBT is not considered to be a problem in the Gambia because even though it is criminalised the LGBT community are not subjected to any form of discrimination and harassment. At this point of our nation's history, the Gambian people have not accepted homosexuality as a life style and so the government as the representative of the people does not plan to decriminalise the practice of homosexuality.

## Dissemination of information on the Covenant (art. 2)

**Paragraph 30: Please provide information on the steps taken to disseminate information on the Covenant.**

141. A national inter-ministerial taskforce on treaty body reporting has been set up since 2015. This body is one avenue utilised to disseminate information on the obligations of stakeholders on human rights in general. Between 2015 and 2017 series of training seminars have been spearheaded by this body for state officials and members of the public. It is expected that the National Human Rights Commission will undertake the task of dissemination of information on the Covenant once it effectively starts work.